



W.P.No.28781 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2025

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THE HON'BLE MR JUSTICE C.V.KARTHIKEYAN

W.P.No.28781 of 2024

A.Jenitha Mery

... Petitioner

-Versus-

Tamil Nadu State Transport Corporation Ltd.,
Rep. by its Managing Director,
Villupuram

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking Writ of Mandamus directing the respondent to consider the petitioner's representation dated 30.04.2024 submitted for issuance of modified appointment order with effect from the date of her initial appointment i.e., 08.06.1998 and to deduct the monthly contribution towards the pension fund for the period from 08.06.1998 till 07.08.2012 from her salary proportionately, so as to enable the petitioner to draw pension from the date of her initial appointment i.e., 08.06.1998 besides payment of the monetary benefits such as annual increments, grade pay and other emoluments payable for the period from 2016 to 2019.

For Petitioner : *Mr.S.Mohan*

For Respondent : *Mr.R.Venkatesa Perumal*



W.P.No.28781 of 2024

ORDER

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The writ petition has been filed in the nature of Mandamus seeking a direction against the respondent to consider the representation made by the petitioner dated 30.04.2024 seeking to modify the appointment order as 08.06.1998. The petitioner seeks to deduct the Commuted Pension Fund for the period from 08.06.1998 till 07.08.2012 from her salary proportionately. The petitioner claims that she should have permitted to draw pension from the date of initial appointment/08.06.1998.

2. Though the petitioner claims monetary benefits, even before proceeding further, let me make it very clear that the petitioner is not entitled for any monetary benefit. Her appointment alone can be considered as having joined on 08.06.1998 only for the purpose of pension.

3. In the affidavit filed in support of the writ petition, it had been stated that the petitioner had joined the respondent on 08.06.1998 as a trainee, consequent to her father being categorised as medically unfit and being discharged from service. He also died on 19.01.1999. The petitioner had been employed initially on daily wages of Rs.60/- from 08.06.1998 till 09.01.2001.



W.P.No.28781 of 2024

Thereafter she was discharged from service.

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4. Questioning that particular discharge, the petitioner filed IDOP.No.52 of 2003 before the Labour Court, Cuddalore. An award was passed on 14.12.2010 directing reinstatement. The award came to be passed on examining the service records of the petitioner and it was held that for a period of two years, she had worked continuously for 480 days. The order of discharge was set aside and it was deemed that the petitioner had been brought into regular service. But however the Labour Court did not grant backwages, but only directed reinstatement.

5. The petitioner was reinstated in service on 09.04.2012. The issue then arose whether it was a fresh appointment or whether continuity of service was granted by the respondent from the date of initial employment. The petitioner filed a writ petition in W.P.No. 12176 of 2016. A learned single Judge by order dated 31.03.2016 had passed the following orders:

“6. Accordingly, the writ petition is partly allowed and the second respondent Management is directed to modify the appointment order dated 07.08.2012, reinstating the petitioner from the date on which she was discharged with continuity of service which would mean that the total length of service would be taken into



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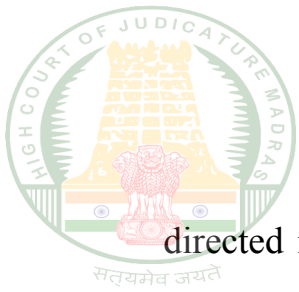


W.P.No.28781 of 2024

consideration from the date on which the petitioner was initially appointed by the respondent Corporation for all purposes except wages for the said period, since the Labour Court has not granted any relief in that regard and such finding having been confirmed by this Court. No costs. Consequently, connected miscellaneous petitions are closed.”

6. The learned counsel for the petitioner placed reliance on the aforementioned observation of the learned Single Judge. But a careful perusal shows that the respondent was directed to modify the appointment order by reinstating the petitioner from the date on which she was discharged namely 09.01.2001. It had also been stated that the total length should however be taken into consideration from the date of initial appointment, which is 08.06.1998. Seeking to consider the initial appointment as 08.06.1998, the present writ petition has been filed.

7. A careful perusal of the award of the Labour Court which has not been challenged either by the petitioner or by the respondent and which had attained finality would show that the Labour Court had proceeded on the basis that the petitioner, having been appointed on 08.06.1998 should not have been discharged from service on 09.01.2001. Therefore, the Labour Court had



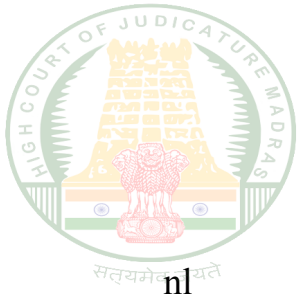
W.P.No.28781 of 2024

directed reinstatement. The only inference which could be drawn is that such reinstatement had been granted on and from 08.06.1998, the initial date of appointment. But the Labour Court had also stated that backwages cannot be granted to the petitioner herein. The petitioner has not challenged that particular portion of the award of the Labour Court which had attained finality as also observed by the learned Single Judge in W.P.No.12176 of 2016 referred supra.

8. In view of that reason, a direction is issued that petitioner should be treated as having joined service on 08.06.1998 only for the purpose of calculation of length of service for grant of pension and not for any other monetary benefits.

9. Learned counsel states that a direction should also be given that the monthly contribution towards pension from 08.06.1998 till 07.08.2012 should be deducted from the salary of the petitioner in proportionate terms. I leave that decision to be taken by the respondent.

10. The writ petition is disposed of by directing modification of the date of initial appointment as 08.06.1998. No costs.



W.P.No.28781 of 2024

14.02.2025

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Speaking order/Non speaking order

Neutral Citation : Yes/No

C.V.KARTHIKEYAN, J.

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To

1.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram

W.P.No.28781 of 2024



WEB COPY



W.P.No.28781 of 2024

14.02.2025